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09/245,596 02/05/99 KUTCHMAREK

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000530 QM12/0406
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EXAMINER

CHOI, S

ART UNIT

PAPER NUMBER

3724

22

DATE MAILED:

04/06/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/245,596

Applicant(s)

KUTCHMAREK ET AL.

Examiner

Stephen Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-8 and 11-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-8 and 11-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Response to Amendment

1. In view of applicant's response, the finality of the rejection of the last Office action is withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 3-8, 11-12, 14 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyer (US 276,265).

Meyer discloses all the positively recited elements of the invention including:

- a) a base (n);
- b) a frame (r, lines 13-17);
- c) a cutting assembly (h);
- d) a cutting blade including a cutting edge (o);
- e) a driver (see Fig. 1);
- f) guide tracks (two guides, Fig. 1);
- g) a lever including a handle (f);
- h) a backup (line 61).

Claim Rejections - 35 USC § 103

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer.

Meyer discloses the invention substantially as claimed except for the backup is made of nylon. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a nylon backup, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

6. Claims 15-19 and 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Sands et al. (US 5,339,716).

With respect to claims 15-19, Meyer discloses the invention substantially as claimed except for a guide rail including a mandrel. Sands discloses an anvil (44) having an outer profile (49) designed to correspond with the inner contour of the headrail. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an anvil as taught by Sands on Meyer's device in order to facilitate securely holding of the head rail in place and preventing from twisting while it is being cut.

With respect to claims 23-30, Meyer discloses the invention substantially as claimed except for:

- 1) the cutting blade including a massive portion and a pocket and the massive portion being thicker than the pocket;
- 2) the pocket is contiguous with the cutting edge and the massive portion surrounds the pocket;
- 3) the massive portion of the cutting blade is approximately 0.40-0.50 inches thick and the pocket is approximately 0.10-0.20 inches thick;
- 4) the cutting blade includes a first face substantially flat and a second face including the pocket;
- 5) the pocket including a tapered region extending from the cutting edge and the tapered region having a thickness increases as the distance from the cutting edge increases;
- 6) the tapered region includes a first tapered section extending away from the cutting edge and the first tapered section and the first face defining a first acute angle;
- 7) the tapered region includes a second tapered section extending from the first tapered section and remote from the cutting edge;
- 8) the second tapered section and the first face defining a second acute angle which is smaller than the first acute angle.

Sands discloses a cutter blade (31) with front surface (120), a tapered region (124) which tapers from back surface (122) into general proximity with cutting edge (70), a bevel (126) forming a larger acute angle (129) with longitudinal axis (128) than does tapered region (124) which forms an acute angle (130). It would have been obvious to

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one having ordinary skill in the art at the time the invention was made to modify Meyer's cutting blade with front surface, a tapered region which tapers from back surface into general proximity with cutting edge, a bevel forming a larger acute angle with longitudinal axis than does tapered region which forms an acute angle as taught by Sands in order to improve the strength and durability to make efficient cutting. With respect to claim 26, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make Meyer's blade with such range of thickness, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

7. Claims 20-22 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Margolien (US 3,263,544).

With respect to claims 20-22, Meyer discloses the invention substantially as claimed except for a clamping assembly. Margolien discloses a vise (41) having a handle (41a) and jaws (41b, 41c) to clamp a workpiece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a clamping assembly as taught by Margolien on Meyer's device in order to secure a workpiece in a desired position.

With respect to claim 34, Meyer discloses the invention substantially as claimed except for a measuring assembly. Margolien discloses a scale (57). It would have been obvious to one having ordinary skill in the art at the time the invention was made

to employ a measuring device as taught by Margolien on Meyer's device in order to measure the specified length.

8. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Sands et al. as applied to claim 30 above, and further in view of Margolien.

Meyer and Sands disclose the invention substantially as claimed except for a measuring assembly. Margolien discloses a scale (57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a measuring device as taught by Margolien on the modified device of Meyer in order to measure the specified length.

9. Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Sands et al., and further in view of Margolien as applied to claim 31 above, and further in view of Yannazzone (US 5,103,702).

Meyer, Sands and Margolien disclose the invention substantially as claimed except for a stop block movable away from the second end during operation and he pocket facing the second end. Yannazzone teaches that the stop (32) being removed after shaped clamps (34) fasten the stack of slats (16) onto the shaped anvils (12) so that the free ends (16a) of the slats are allowed to fall away freely, without being impeded by anything, for instance by the stops (32) or clamps to obtain a smooth end and smooth corners of the finished cut slats. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a stop as taught by Yannazzone on the modified device of Meyer in order to reduce the force exerted by the cutting blade and to prevent the likelihood of cracking the workpiece while being cut.

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10. Claims 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Margolien as applied to claim 34 above, and further in view of Yannazzone.

Meyer and Margolien disclose the invention substantially as claimed including a ruler (57) for measuring the workpiece except for a stop block movable between a first position in which the stop block engages the workpiece and a second position in which the stop block is remote from the workpiece. Yannazzone teaches that the stop (32) is removed after shaped clamps (34) fasten the stack of slats (16) onto the shaped anvils (12) so that the free ends (16a) of the slats are allowed to fall away freely, without being impeded by anything, for instance by the stops (32) or clamps to obtain a smooth end and smooth corners of the finished cut slats. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a stop as taught by Yannazzone on the modified device of Meyer in order to reduce the force exerted by the cutting blade and to prevent the likelihood of cracking the workpiece while being cut.

Response to Arguments

11. Applicant's arguments with respect to claims 3-8 and 11-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning the content of this communication or earlier communications from the examiner should be directed to S. Choi whose telephone number is (703) 306-4523. The examiner can normally be reached on Monday through Friday from 9:30 AM to 3:30 PM. Any inquiries concerning other than the content of this and previous communications, such as missing references or filed papers not acknowledged, should be directed to the Customer Service Representative, Tech Center 3700, (703) 306-5648.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached on (703) 308-2187. The fax phone number for this Group is (703) 305-3579.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office actions directly into the Group at (703) 305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO

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deposit account. Please identify Examiner Choi of Art Unit 3724 at the top of your cover sheet.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

SC
April 5, 2001



KENNETH E. PETERSON
PRIMARY EXAMINER